

MONTANA LEGISLATIVE HISTORY

Chapter 366 19 55

Bill H 301 S _____ Original bill & history C

H. Committee on Human Services & Aging

Hearing Date(s) Jan 27 ✓ C

Feb 06 ✓ C

_____ C

_____ C

Date Out Feb 05 ✓ C

S. Committee on Public Health Welfare and Safety

Hearing Date(s) Mar 06 ✓ C

Mar 08 ✓ C

_____ C

_____ C

Mar 05 ✓ C

Did this bill originate in an interim committee? Yes No

Committee _____

Report _____

HB 301 INTRODUCED BY SOFT, ET AL.

PROVIDE DEFINITIONS RELATING TO HEALTH CARE FACILITIES
BY REQUEST OF THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL
SCIENCES

1/20	INTRODUCED		
1/20	FIRST READING		
1/20	REFERRED TO HUMAN SERVICES & AGING		
1/20	FISCAL NOTE REQUESTED		
1/27	HEARING		
1/27	FISCAL NOTE RECEIVED		
1/27	FISCAL NOTE PRINTED		
1/30	REVISED FISCAL NOTE RECEIVED		
1/31	REVISED FISCAL NOTE PRINTED		
2/10	COMMITTEE REPORT—BILL PASSED AS AMENDED		
2/11	2ND READING PASSED AS AMENDED	82	16
2/14	3RD READING PASSED	90	10
	TRANSMITTED TO SENATE		
2/20	FIRST READING		
2/20	REFERRED TO PUBLIC HEALTH, WELFARE & SAFETY		
3/06	HEARING		
3/10	COMMITTEE REPORT—BILL CONCURRED AS AMENDED		
3/16	2ND READING CONCURRED	49	1
3/17	3RD READING CONCURRED	42	4
	RETURNED TO HOUSE WITH AMENDMENTS		
3/31	2ND READING AMENDMENTS CONCURRED	92	1
4/03	3RD READING AMENDMENTS CONCURRED	94	5
4/05	SIGNED BY SPEAKER		
4/06	SIGNED BY PRESIDENT		
4/07	TRANSMITTED TO GOVERNOR		
4/12	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 366		
	EFFECTIVE DATE: 10/01/95		

HB 302 INTRODUCED BY J. JOHNSON, ET AL.

INCREASE PENALTY FOR A PERSON CONVICTED OF A SCHOOL
DISTURBANCE

1/20	INTRODUCED		
1/20	FIRST READING		
1/20	REFERRED TO EDUCATION & CULTURAL RESOURCES		
1/20	FISCAL NOTE REQUESTED		
1/21	REREFERRED TO JUDICIARY		
1/24	FISCAL NOTE RECEIVED		
1/24	FISCAL NOTE PRINTED		
1/26	HEARING		
2/08	TABLED IN COMMITTEE		
2/23	MISSED TRANSMITTAL DEADLINE		
	DIED IN COMMITTEE		

HB 303 INTRODUCED BY DENNY, ET AL.

PROVIDE FOR NONPARTISAN NATURE OF COUNTIES, MUNICIPALITIES,
AND ALTERNATIVE FORMS OF LOCAL GOVERNMENT

1/20	INTRODUCED		
1/20	FIRST READING		
1/20	REFERRED TO LOCAL GOVERNMENT		
1/26	HEARING		
2/14	TABLED IN COMMITTEE		
2/23	MISSED TRANSMITTAL DEADLINE		
	DIED IN COMMITTEE		

windshield permit. The permit would be for loading and unloading only.

REP. BOHLINGER inquired of Mr. Schoen if a facility may have more than one vehicle on the road if each vehicle has been issued a permit. Mr. Schoen replied that if a facility had more than one vehicle, all vehicles can be on the road at the same time, but only one vehicle can display the permit. A handicapped individual can acquire more than one permit if more than one vehicle is owned by that person.

REP. BOHLINGER suggested to Mr. Schoen that the intent appears to be an accommodation for handicapped individuals. This could be strengthened by changing "a permit" to something other than one. Mr. Schoen replied that is a good suggestion, and stated again that an individual could apply for as many permits as the number of vehicles owned by the individual.

Closing by Sponsor:

REP. SAM ROSE said the current law is too rigid. He said he fully intends to check with the Motor Vehicle Division again to see if they can get one permit per vehicle added so a long-term care facility can get more than one permit, if they own more than one vehicle.

{Tape: 1; Side: A; Approx. Counter: 450; Comments: n/a.}

HEARING ON HB 301

Opening Statement by Sponsor:

REP. LOREN SOFT, HD 12, Billings, said this bill involves a number of agencies, because corrections are being made as well as transfers of authority and licensing changes. At least four agencies are involved: Social and Rehabilitation Services, Department of Health and Environmental Sciences, Montana Health Care Association, and Food and Consumer Protection Agency. He mentioned that the amendments have only been briefly reviewed by Mr. Niss and the fiscal note dramatically disagrees with the original information he had. He said the fiscal note given to the committee is not the one he signed. He asked the committee to make a note at the bottom of their fiscal note that the \$49,000 figure is not accurate. He mentioned people from the aforementioned agencies who were present to testify at the hearing.

He walked the committee through the bill and the amendments being proposed. Changes were made to the title and throughout the body of the bill.

{Tape: 1; Side: B; Approx. Counter: 000; Comments: n/a.}

Roy Kemp, State Licensure Bureau Chief, submitted written testimony. He stated that it would be inappropriate for him to appear as a proponent, but was present to answer any questions pertaining to the bill. **EXHIBIT 1**

Proponents' Testimony:

Nancy Ellery, Administrator, Medicaid Division, Social and Rehabilitative Services (SRS), submitted written testimony. **EXHIBIT 2**

Rose Hughes, Executive Director, Montana Health Care Association, said they strongly support this bill. It properly defines definitions of residential health care facilities. She said it would not change the services of adult foster care, personal care, and adult retirement homes, but it would make for better licensing and allow people to understand what the services are. The amendments also have their support and further clarify the intent of the bill.

Bob Olsen, Montana Hospital Association, echoed the comments of the sponsor of this bill and supported HB 301 as amended.

Bob Robinson, Director, Department of Health and Environmental Sciences (DHES), said this is an attempt to develop "one-stop shopping" and a more straight-forward and simplified licensing process. This would eliminate the licensee from having to hunt for the various agencies that license their facilities.

Opponents' Testimony: None

Informational Testimony: None

Questions From Committee Members and Responses:

CHAIRMAN DUANE GRIMES asked **REP. SOFT** to re-describe the bill so they have a clear understanding of the bill. He asked if what the bill would do, is to take current facilities that are licensed by separate agencies and wrap them into one through redefining and putting them all under a single title. That would be the residential care facilities. He asked if that was accurate so far. **REP. SOFT** said he wished to defer his question to the other people present. **CHAIRMAN GRIMES** redirected his question to **Ms. Hughes** and she answered that he had accurately described the bill, but stated that it might be better to direct questions to **Mr. Kemp**, since it's his Department's bill.

REP. BOHLINGER asked **Roy Kemp** if the changes made by the bill would increase the cost for the elderly individual or the health care facility.

Mr. Kemp said these four consolidations will not lose their identities. The purpose, as described in his written testimony (see Exhibit 1), is for the four facility types to be placed

under one residential health care license, and would be placed under that facility by endorsement. If a facility wished to have an adult day care as well as personal care, they could meet the rule requirements and be endorsed for both those facility types. Currently, adult foster care facilities have no license requirement. The DHES would require \$20 to license that facility. Retirement homes are presently \$40 per year. The structure that the licensing bureau uses is \$20 for the first twenty beds and a dollar for each bed after. He calculated that 19 facilities would have a reduction in their licensing fee, and seven facilities would have a slight increase. There would be no change to adult foster care on the SSI payment. They are not going to take adult foster care and categorize it as a personal care facility, but it will remain as it is.

REP. BOHLINGER questioned whether or not they would be incurring additional expense, as stated on page 12, line 6, where a residence category fee which is now renewed annually would increase to quarterly renewals. **Mr. Kemp** said the requirement for the quarterly renewal for category B was always there. He said this section of bill deletes the requirement for category A assessment on a quarterly basis. He said category A people are highly functional who require little assistance with activities of daily living. He said the Department sees no reason why they should incur the expense of being assessed on a quarterly basis. If, as they age, they progress into category B, it is the intent of the statute, to require a quarterly assessment. It can be done by an R.N., nursing practitioner, physician assistant, or a physician.

REP. BOHLINGER clarified that additional costs will not be passed on to the individual. **Mr. Kemp** added that it would only incur the expense to a resident were they to decline from a category A resident to a category B resident which requires skilled nursing care.

REP. SQUIRES asked about the home infusion therapy services described on page 4 of the bill and asked for further clarification. **Mr. Kemp** said that home infusion therapy is provided under the supervision of a licensed health care professional and can be administered by such an individual. He said this is service would allow an individual to receive such treatment in their home with a prescription for a physician.

REP. SQUIRES wondered if the kind of infusion therapy referred to in the bill is restrictive if it has to leave the hospital and be done in the individual's home by a home infusion therapy company. She asked if the health care facility would demand that it be given in a certain kind of facility, so that it limits where the company can operate. **Mr. Kemp** replied that they have a license category that references a health care facility and in many instances, such as a hospice, is not operated out of one particular place.

REP. SQUIRES asked **Mr. Olson** if he is comfortable with that. **Mr. Olson** replied that as far as home infusion therapy is concerned, often the products are crafted by a pharmacy and then delivered by a licensed agency or health care professional and they don't envision that this statute would impinge on their ability to do that.

REP. SQUIRES referred to **REP. BOHLINGER'S** concern about category B and remembered similar legislation discussed during the 1993 legislature. She asked if this bill clarifies better the definition of category A and B type personal care facilities. **Mr. Kemp** said it does.

REP. SQUIRES asked **Mr. Robinson** how this fits into the "grand scheme" of the combining of the DHES, SRS, and the other programs. **Mr. Robinson** responded that with the proposed reorganization of the Public Health and Human Services consolidation, the licensing function would not be part of that department and they are not clear where it would go, possibly to the Department of Labor. **REP. SQUIRES** asked if he just said the licensing program would go to the Department of Labor. He said that was correct.

REP. SUSAN SMITH asked **Mr. Kemp** if home infusion therapy is intravenous treatment. He responded yes.

REP. SUSAN SMITH asked **Mr. Kemp** if he could comment on the fiscal note and he said he could. In reference to Item #5, she asked about the figure \$52.75. **Mr. Kemp** said they have no intention to change adult foster care home to a personal care aid facility as indicated on the fiscal note. They see no impact as far as SSI payments increasing beyond what they are already paying to eligible people now. He said the fiscal note is incorrect.

{Tape: 1; Side: B; Approx. Counter: 688; Comments: n/a.}

REP. BONNIE MARTINEZ asked if the rules and regulations would remain the same for foster homes. **Mr. Kemp** said they are not changing the rules, but are only attempting to move the categories under one licensing group. He said they were further defining the space required for the number of individuals at these facilities, but not changing the rules.

REP. DEB KOTTEL asked about page 3, line 19, on the bill, where chemical dependency facilities are added under health care facilities. She wanted to be sure this was correct. **Mr. Kemp** described the Department's responsibility to survey and assess chemical dependency facilities as part of the licensing process. He said the addition of this kind of facility would update the statute.

REP. BRUCE SIMON referred to page 3, where the definitions of a health care facility are being updated, and wondered about Certificates of Need (CON), and the eight health care facilities

that are required to have a CON. Others do not require a CON, such as in-state renal, dialysis, health maintenance organizations, home infusion therapy services, hospices, hospitals, infirmaries, out-patient facilities, public health centers, residential care facilities. He asked if it was correct that these facilities would not require a CON.

Mr. Kemp said that was correct and said that during the last regular session of the legislature, personal care facilities were struck from the definition requiring a CON, and is the same situation with the others he listed. He said the legislature has determined that the facilities listed under the CON definition do require review under a CON. **REP. SIMON** asked about personal care facilities and "supervision of self-medication." He said his mother lives in a facility providing these services, as well as **REP. BOHLINGER**.

{Tape: 2; Side: A; Approx. Counter: 000; Comments: n/a.}

REP. SIMON continued discussing a problem with the rules pertaining to self-medication in these facilities. He wondered how far they can go to assist people with medication, even if they are not allowed to administer the medication.

Mr. Kemp said the facility he described probably misunderstood the definition of self-medication and imposed an incorrect policy. He said self-medication allows personnel to assist them in opening the bottle, dispensing into their hand and assisting in the taking of the medicine.

REP. MOLNAR asked a question about putting the medicine right into the person's mouth. He was told that would be in violation of the statute.

CHAIRMAN GRIMES asked about the fiscal note and noted on page 11 of the bill they would be redefining category A to include personal care facilities that can now have less than six people and who are entitled to SSI payments.

Mr. Kemp said he didn't think they are currently in category A facilities. They want to reduce the number from six to a lower number. He said that a number of facilities want to establish a home-like environment. Houses are remodeled for this purpose and have to be done under strict requirements. When six individuals are in these homes, they must find a very large home to fit the requirements of this category. He said they have been asked to accommodate five instead of six residents. Zoning requirements have also been a problem.

CHAIRMAN GRIMES asked how they are classified if they have less than five residents and they are a category A type facility. **Mr. Kemp** responded that they would be classified as adult foster care.

direct, every day working knowledge of the health care risks that are involved and know more about the subject than he does, so he would vote with them.

REP. BERGMAN agreed with **REP. BOHLINGER** but said she would vote for it because it's the law in K-12. She wondered why the law should be different for pre-schoolers.

REP. KEN WENNEMAR said he was for the bill, then started thinking about it, so he called his mother who is a nurse, and was told that in his age group they didn't see many people die from serious diseases. He stated that many members of the committee grew up in an age when children died of serious diseases, and if his generation forgets about that, there could be an increase in diseases, because people are liable to avoid immunization. He said the risk of immunization is less than not being immunized, so he will vote yes on the do not pass motion.

REP. MOLNAR asked **REP. BOHLINGER** about children having contact with one another when they have a known communicable disease such as AIDS, which is allowed in the public schools, and wondered what he thought about this.

REP. BOHLINGER said he understood that children do play with one another outside the classroom and will interact. He said it seemed to him that children would be more vulnerable and he favors immunization, and would like to see more children inoculated.

REP. MOLNAR thought it was peculiar that a child would not be allowed to go to a school if they have a problem with inoculation, but could if they have AIDS.

REP. DICK GREEN said there are cases where inoculation poses a greater threat than the possibility of the disease, such as small pox. He said the current law makes liars out of people and intrudes on people's rights. He would not support the do not pass motion.

REP. SUSAN SMITH asked if they would first be arguing the bill and then the amendment.

CHAIRMAN GRIMES said he requested the amendment be drafted because he told **REP. KADAS** that he didn't think the bill stood a good chance without it. He was holding on moving the amendment to see if that was the case or not.

REP. SQUIRES said she didn't want to discuss the amendment.

REP. SUSAN SMITH said she received some phone calls on the bill from people who have children in daycare and one from a provider who supported the exemption for religious reasons.

REP. BOHLINGER WITHDREW HIS DO NOT PASS MOTION.

HOUSE OF REPRESENTATIVES

Human Services and Aging

ROLL CALL

DATE 1-27-95

NAME	PRESENT	ABSENT	EXCUSED
Rep. Duane Grimes, Chairman	✓		
Rep. John Bohlinger, Vice Chairman, Majority	✓		
Rep. Carolyn Squires, Vice Chair, Minority	✓	✓	
Rep. Chris Ahner	✓		
Rep. Ellen Bergman	✓		
Rep. Bill Carey	✓		
Rep. Dick Green	✓		
Rep. Toni Hagener	✓	✓	
Rep. Deb Kottel	✓		
Rep. Bonnie Martinez	✓		
Rep. Brad Molnar	✓		
Rep. Bruce Simon	✓		
Rep. Liz Smith	✓ present	absent	
Rep. Susan Smith	✓		
Rep. Loren Soft	✓		
Rep. Ken Wennemar	✓		

DEPARTMENT OF HEALTH AND ENVIRONMENTAL SCIENCES
HEALTH FACILITIES DIVISION
LICENSURE BUREAU

HB301 WRITTEN TESTIMONY

This bill is intended to update statutory definitions;

HB301 redefines an Adult Day Care facility and restricts Adult Day Care from providing overnight stays. Adult Day Care facilities can seek a Personal Care license if they wish to provide overnight services. Meeting the requirements for personal care will assure that all necessary requirements to provide overnight care is available in the Adult Day Care facility. Adult Day Care facilities that are attached to a nursing facility can admit an overnight stay into an empty bed in the nursing facility. This would not require additional licensure.

HB301 replaces terms no longer in use such as "Kidney Treatment Centers" which changes to "End Stage Renal Dialysis".

HB301 modifies the definition of "health care facility" to identify only those specific types of facilities defined by the legislature and thus subject to regulation and licensure. Under the present language of "includes but is not limited to" any potential provider can request a health care facility/service license and not be required to fit a license category as defined by the legislature. HB301 then updates the list of licensed "health care facilities" to include Chemical Dependency, End Stage Renal Dialysis, Home Infusion Therapy Agencies, and Residential Care facilities. A definition for Home Infusion "service" and "Agency" is added.

If this bill is successful, a definition for Adult Foster Care, Retirement Home, and Residential Care will be necessary. These definitions are added by HB301. The bill defines a "Residential Care Facility" and moves four different facility types under this Licensure category. Licensing would be accomplished by endorsing a residential care license with one or more of the facility types as requested by a provider. The delivery of care in a "Residential Care Facility" will proceed along a spectrum from Retirement Homes, Adult Day Care, Adult Foster Care, and Personal Care. All four facility types covered by a "Residential Care" license will still be properly regulated, inspected, and licensed under the existing rules, but by one agency rather than three different agencies. The Licensure Bureau believes this is in harmony with the efforts to consolidate government and to provide a single point of access for the public.

This bill is intended to allow the department to request documentation from a health care facility to support written evidence of JCAHO accreditation.

The statute states "...any hospital that furnishes written evidence..." This language is problematic. There is a very broad interpretation of this requirement by providers with regards to what they deem written evidence of JCAHO accreditation. The cover letter granting accreditation is not deemed evidence. Accreditation by JCAHO may require a facility follow-up "focused survey" with a time line plan of correction as a basis for accreditation. These documents, in addition to the initial inspection report, follow up reports and any accompanying documents, must be provided to the department for review. This statute only applies if a facility wishes to seek license renewal based on JCAHO accreditation.

HB301 will requires the department to receive notification by a health care facility; indicating they are ready for an initial inspection.

The present statute requires an initial on-site survey within 45 days after receiving an application for a health care facility license. Frequently, a health care facility is not ready for an on-site inspection within that time frame. The results are lost productivity and a duplication of efforts resulting in increased cost to the department. This change will allow a provider to notify the department when they are ready to be inspected and still be able to proceed with the application process. Submitting an application can be important for financial arrangements. It has been reported to the department that on occasion, the owner must show they have initiated the licensure process before the financing institution will proceed.

HB301 is intended to remove statutory limitations of Personal Care "A" Facilities.

a) HB301 removes the quarterly requirement for a physician certification and assessment for category "A" personal care resident. In the last legislative session Senator Tom Towe successfully sponsored a bill authorizing the department to write rules for a new personal care category license, to include category "A" & "B" residents. The requirement for assessment of category "A" residents was part of that bill. The focus of category "A" personal care is intended to offer people who require some assistance with activities of daily living an alternative to residing in an institutional setting. Category "A" residents are by definition highly functional people that need only little assistance with activities of daily living. The department feels an assessment was never intended to include category "A" residents. The department sees no justification for a signed statement from a physician for a category "A" PC resident.

b) HB301 also removes the minimum number from category "A" personal care. The Department has been approached by a number of potential providers who would like a category "A" personal care license for less than 6 residents. Presently this is not permitted by statute. The focus of personal care is to provide a more home-like environment and to place less focus on institutional settings and requirements. Many providers accomplish this by purchasing a house and remodeling, where necessary. Suitable houses are already difficult to find with local zoning restriction limits. A personal care facility's resident capacity is determined by available square footage of sleeping rooms, dining, and activity/day rooms. By limiting a minimum of six residents, it makes it more difficult to find a large enough suitable structure to remodel. Further, Adult Foster Care begins with 4 or less residents and Personal Care "A" begins with 6 or more residents. There is no category to include 5 category "A" residents. The Department feels there is no justification for such a minimum requirement. If eliminated it will help to make more personal care homes available to the public as an alternative to entering an institutional setting.

HB301 is intended to continue the Certificate of Need exception for a "Residential Care Facility" presently offered to Adult Foster Care.

HB301 will consolidate the regulatory oversight of Retirement Homes, Adult Day care, Adult Foster Care and Personal Care into a single agency. The new health care license category will be called "Residential Care". Licensure would be accomplished by endorsing the residential care license with one or more of the four facility types as requested by the provider. All facility types covered by a "Residential Care" license are presently exempted from review by Certificate of Need. Therefore, there is no impact by the language clarifying the exemption.

HB301 establishes requirements for Home Infusion Therapy Services.

This section further defines home infusion therapy services and the requirements for the provision of this service.

The Health Facilities Division, licensure Bureau would appreciate your consideration of this bill and ask for a vote of do pass for HB301.

Denzel C. Davis, Administrator
Licensing & Certification Bureau
Health Services Division

**TESTIMONY BY THE DEPARTMENT OF SOCIAL AND
REHABILITATION SERVICES BEFORE THE HOUSE
HUMAN SERVICES AND AGING COMMITTEE**

HB 301 - Act Relating to Health Care Facilities

The Department of Social and Rehabilitation Services supports House Bill 301. Passage of this bill will facilitate the provision of home and community services that are alternatives to more costly institutional care.

As part of the Department's Long Term Care Reform efforts, we are developing a number of community options for recipients of long term care services. One of these options, which will be provided under our Home and Community Based Waiver, is adult residential care in foster homes and personal care facilities. The services are being developed under the waiver to ensure the services are cost-effective and targeted to those at risk of institutionalization. The creation of a category defined as residential care facilities and the licensing of these various facilities by only one department will greatly facilitate the definition of, and reimbursement for, this service.

The deletion of the minimum resident requirements for category A personal care facilities will promote the availability of this service in small, more home-like settings. This goes hand in hand with our philosophy regarding the provision of long term care services. That philosophy is to encourage a maximum level of individual independence, foster cost-effective services, and respect the dignity of the individual.

We urge you to pass HB 301.

HOUSE OF REPRESENTATIVES
VISITORS REGISTER

Human Services & Aging

DATE 1-27-95

BILL NO. HB 301
HB 318

SPONSOR(S) _____

PLEASE PRINT

PLEASE PRINT

PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	Support	Oppose
Cynthia Brooks	DHES	✓	
Ray Kemp	DHES	✓	
Bud Schoen	MOTOR VEHICLES	H.B. 318 ✓	
Nancy Ellery	SRS	H.B. 318 ✓	
Rose Hughes	Mt Health Care	H.B. 301 ✓	
Bob Olsen	Mt Hospital Assoc	H.B. 301 ✓	
John Melcher Jr	DFS		

PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.

HR:1993

wp:visbcom.man

CS-14

Motion/Vote: REP. JOHN BOHLINGER MOVED THAT HB 381 DO PASS AS AMENDED. Voice vote was taken. The motion carried unanimously.

{Tape: 2; Side: B; Approx. Counter: 460; Comments: n/a.}

EXECUTIVE ACTION ON HB 301

Motion: REP. LOREN SOFT MOVED THAT HB 301 DO PASS. HE THEN MOVED THAT THE AMENDMENTS TO HB 301 DO PASS.

Discussion:

Roy Kemp, Vice Bureau Chief of the Department of Health and Environmental Services (DHES), walked the committee through the amendments regarding adult care foster homes.

REP. BRUCE SIMON clarified that the amendments were the same that were handed out at the hearing.

Vote: Voice vote was taken. The motion carried 15-1 with REP. S. SMITH voting no.

Motion: REP. LOREN SOFT MOVED THAT HB 310 DO PASS AS AMENDED.

Discussion:

REP. SOFT told the committee that the fiscal note was greatly exaggerated and it was now corrected and approved by the department.

REP. LIZ SMITH voiced her cost related concerns of the services that are privately contracted. She said she was opposed to expanding that level of care at this time.

CHAIRMAN GRIMES asked REP. SOFT if he was satisfied with the new fiscal note and he said that he was. He explained that this was a consolidation of four or five existing titles into one.

Vote: The motion carried 12-4 with REPS. GREEN, MARTINEZ, L. SMITH and S. SMITH voting no.

{Tape: 3; Side: A; Approx. Counter: 00; Comments: n/a.}

EXECUTIVE ACTION ON HB 245

Motion: REP. JOHN BOHLINGER MOVED THAT HB 245 DO PASS.

Discussion:

REP. BOHLINGER recommended the bill because families would be helped to stay off AFDC.



HOUSE STANDING COMMITTEE REPORT

February 9, 1995

Page 1 of 3

Mr. Speaker: We, the committee on Human Services and Aging report that House Bill 301 (first reading copy -- white) do pass as amended.

Signed: _____

Duane Grimes, Chair

And, that such amendments read:

1. Title, Page 1, line 11.

Following: "SERVICES"

Insert: ", ADULT FOSTER CARE HOMES,"

2. Page 1, line 25.

Following: "foster care"

Insert: "home"

Following: "offers"

Insert: "light"

3. Page 1, line 25.

Following: "(3)"

Insert: "(a)"

4. Page 1, line 26.

Following: "home."

Insert: "(b) As used in this subsection (3), the following definitions apply:

(i) "Aged person" means a person as defined by department rule as aged.

(ii) "Custodial care" means providing a sheltered, family-type setting for an aged person or disabled adult so as to provide for the person's basic needs of food and shelter and to ensure that a specific person is available to meet those basic needs.

Committee Vote:

Yes 12, No 4.

341652SC.Hdh

(iii) "Disabled adult" means a person who is 18 years of age or older and who is defined by department rule as disabled.

(iv) "Light personal care" means assisting the aged person or disabled adult in accomplishing such personal hygiene tasks as bathing, dressing, hair grooming, and supervision of prescriptive medicine administration. The term does not include the administration of prescriptive medications.

(v) "Skilled nursing care" means 24-hour care supervised by a registered nurse or a licensed practical nurse under the orders of an attending physician."

5. Page 5, line 4.

Following: "nursing care,"

Insert: "residential care,"

6. Page 5, line 6.

Following: "~~52-3-303~~"

Strike: "residential care facilities"

7. Page 13, line 21.

Following: "residential care facilities"

Insert: "as defined in 50-5-101"

8. Page 15, Line 16.

Following: "home"

Strike: "may"

Insert: "shall"

9. Page 15, following line 18.

Insert: "NEW SECTION. Section 12. Standards for adult foster care homes. The department may adopt rules establishing standards for the licensing of adult foster care homes. The standards must provide for the safety and comfort of the residents and may be adopted by the department only after receiving the advice and recommendations of the state fire prevention and investigation program of the department of justice in relation to fire and safety requirements for adult foster care homes."

NEW SECTION. Section 13. Limitation on care provided in adult foster care home. (1) Except as provided in this section, the types of care offered by adult foster care homes is limited to light personal care or custodial care and may not include skilled nursing care.

(2) An adult foster care home may be licensed to provide care for an adult who resided in the home for at least 1 year before reaching 18 years of age, even though the adult is:

(a) in need of skilled nursing care;

(b) in need of medical, physical, or chemical restraint;
(c) nonambulatory or bedridden;
(d) incontinent to the extent that bowel or bladder control is absent; or

(e) unable to self-administer medications.

(3) An adult foster care home that applies for a license under subsection (2) must have a signed statement from a physician agreeing that the care needed by the adult may be provided in the home.

(4) A resident of an adult foster care home licensed under subsection (2) must have a signed statement, renewed on an annual basis, from a physician, a physician assistant-certified, a nurse practitioner, or a registered nurse, whose work is unrelated to the operation of the home and who:

(a) actually visited the home within the year covered by the statement;

(b) has certified that the particular needs of the resident can be adequately met in the home; and

(c) has certified that there has been no significant change in health care status that would require another level of care."

Renumber: subsequent sections

10. Page 15, lines 23 and 25.

Strike: "and 11"

Insert: "through 13"

-END-

HOUSE OF REPRESENTATIVES

ROLL CALL VOTE

Human Services and Aging Committee

DATE 2-6-95 BILL NO. HB 301 ~~800~~ NUMBER _____

MOTION: Amendments 'Do Pass'

John Bohlinger made motion

~~John Bohlinger made motion "Do Pass as Amended"~~

NAME	AYE	NO
Rep. Duane Grimes, Chairman	✓	
Rep. John Bohlinger, Vice Chairman, Majority	✓	
Rep. Carolyn Squires, Vice Chairman, Minority	✓	
Rep. Chris Ahner	✓	
Rep. Ellen Bergman	✓	
Rep. Bill Carey	✓	
Rep. Dick Green	✓	
Rep. Toni Hagener	✓	
Rep. Deb Kottel	✓	
Rep. Bonnie Martinez	✓	
Rep. Brad Molnar	✓	
Rep. Bruce Simon	✓	
Rep. Liz Smith	✓	
Rep. Susan Smith		✓
Rep. Loren Soft	✓	
Rep. Ken Wennemar	✓	

HOUSE OF REPRESENTATIVES

ROLL CALL VOTE

Human Services and Aging Committee

DATE 2-6-95 BILL NO. HB 301 NUMBER _____

MOTION: John Bohlinger motion "Do Pass." as
Amended.

NAME	AYE	NO
Rep. Duane Grimes, Chairman	✓	
Rep. John Bohlinger, Vice Chairman, Majority	✓	
Rep. Carolyn Squires, Vice Chairman, Minority	✓	
Rep. Chris Ahner	✓	
Rep. Ellen Bergman	✓	
Rep. Bill Carey	✓	
Rep. Dick Green		✓
Rep. Toni Hagener	✓	
Rep. Deb Kottel	✓	
Rep. Bonnie Martinez		✓
Rep. Brad Molnar	✓	
Rep. Bruce Simon	✓	
Rep. Liz Smith		✓
Rep. Susan Smith		✓
Rep. Loren Soft	✓	
Rep. Ken Wennemar	✓	

12

4

HOUSE OF REPRESENTATIVES
VISITORS REGISTER

Human Services & Aging

DATE 2-6-95

BILL NO. HB 385 SPONSOR(S) _____

SB120

PLEASE PRINT

PLEASE PRINT

PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	Support	Oppose
Dan Anderson	MT Division	SB120	
Kelly Moore	Board of Visitors	SB120	
Barbara Larson 25650 Vandenberg Ln Arlee MT 59421		SB120	
M.A. Wellbank	GRS-CSED	HB385	
Gray B Kemp	DHEJ	HB 301	
Sen John Hertel		SB120	
Andree Larra	Montana Advocacy Prog.	SB120	

PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.

HR:1993

wp:vissbcom.man

CS-14

REP. COBB said yes, it is a settings issue. If the task can be delegated in one setting, then it should be in other settings as well. Once the decision to delegate is made, the setting should not be the issue.

Closing by Sponsor:

REP. COBB said the main issue is settings. The Board of Nursing has the right to decide what type of delegation because it is the Board who has the final control.

HEARING ON HB 301

Opening Statement by Sponsor:

REP. LOREN SOFT, HD 12, Billings, said HB 301 is a combination cleanup bill and consolidation of some licensing activities, and definitions of services provided. This bill was a collaborative effort between 4 state departments. The intent is for the consolidation of state regulatory functions putting health care providers in one department, and offers a single point of access for state licensing services for the public.

He went through the bill, pointing out the major changes: license of adult foster care, name change to end state renal dialysis, requirements for home infusion therapy services, places 4 different types of residential care facilities under one agency, documentation of accreditation and recommendations from the Joint Commission to the Department of Health, application by facility for inspection, placement in personal care facility, and removes minimum number for number of people in personal care facility.

Proponents' Testimony:

Denzel Davis, Administrator, Health Care Facilities Division, Department of Health and Environmental Science, spoke from his written testimony in support of HB 301. EXHIBIT 16. He said this is an issue of consolidation of these types of facilities and point of access. SB 158 ties in with this and indicates the long term plan in the state for alternative settings in the delivery of health care to the elderly population.

Charles Briggs, Director, Rocky Mountain Agency on Aging, spoke in support of and urged passage of HB 301. He said this is a positive step toward consolidation for long-term care.

Joyce DeCunzo, representing the Department of Social and Rehabilitation Services, spoke in favor of HB 301. EXHIBIT 17.

Rose Hughes, representing the Montana Health Care Association, said they support HB 301, particularly facilities providing long-term care. She said bringing all of the long-term facilities, and

their licensing and inspections under one agency will be helpful in dealing with all the aspects of long-term care.

Bob Olson, Montana Hospital Association, said they support HB 301 for all the reasons previously stated.

Jerry Loendorf, representing the Montana Medical Association, said they support HB 301. He said the bill does not mention the Montana Medical Legal Panel, but has the unintended effect of amending the law that deals with the Montana Medical Legal Panel. Referring to 27-6-103 Definitions, (2) Health care facility, portion of the handout, **EXHIBIT 18**, he said the health care facility definition now will include 4 more types of facilities (page 3, line 30 through page 4, lines 4-8 of HB 301). Referring to **EXHIBIT 18**, he said this can be taken care of by adding the highlighted portion to HB 301, thereby taking away the unintended result of HB 301. If this is not done, these 4 additional groups would get a bill from the Montana Medical Legal Panel for part of the assessment for the panel.

Opponents' Testimony: None

Questions From Committee Members and Responses:

SENATOR MOHL referring to the Fiscal Note, he asked about the recovery of \$3,490 per year.

REP. SOFT deferred to **Roy Kemp** to explain.

Roy Kemp, Licensure Bureau Chief, said the fees are based on \$1.00 per bed annual license. There is a minimum of \$20.00 per facility, so those with less than 20 beds would provide \$20.00 for the licensing service. Any facility that has 20 or more beds would provide \$1.00 per bed plus the \$20.00 minimum fee. He said these fees are adequate to process and handle the paperwork for the licensing.

SENATOR MOHL asked for a clarification of the fee, and whether this is an increase or a savings.

Roy Kemp said it is adequate for handling the work of issuing licenses, maintaining records, and mailing the license. It is not an increased expense to the General Fund.

SENATOR MOHL asked if this is all that can be saved by consolidating 3 agencies.

Roy Kemp said this is not a consolidation of 3 agencies, but a consolidating facilities who are licensed under separate agencies to one licensing agency for all these facilities.

SENATOR SPRAGUE referred to the Fiscal Note, line 2, and asked about the adult foster care homes not paying a fee.

Roy Kemp said he did not know why the Department of DFS doesn't assess a fee for the license of adult foster care homes. These homes are for 4 people or less, and is generally a home where someone is caring for a disabled adult. DFS would not charge for the license, but there would be a \$20.00 charge for processing of the license.

SENATOR SPRAGUE asked about the \$20.00 minimum charge, even there is no fee, but just to process the license.

Roy Kemp said DFS charges the fee, but the Department of Health and Environmental Sciences charges \$20.00 to issue that license.

SENATOR ECK asked if the new section for adult foster care is lifted from some requirements that now exist for foster care.

REP. SOFT said yes, DHES has taken them over. They were formerly in the Department of Family Services.

SENATOR ECK asked if these are the same requirements.

REP. SOFT said yes they are.

SENATOR KLAMPE asked how this will coordinate with HB 345.

REP. SOFT said there still would need to be a licensing agency, and this just coordinates the licensing from 4 department to one.

SENATOR KLAMPE asked if HB 301 will have to be amended to take out the word "department".

REP. SOFT said he doesn't know what the ramifications will be.

SENATOR BURNETT said there is a committee that will coordinate everything.

SENATOR SPRAGUE asked about the amendment.

REP. SOFT said the amendment doesn't hurt or help the bill.

SENATOR SPRAGUE asked about the adult foster care homes who are not being charged a fee, how many there are, and if the are entrepreneurs.

REP. SOFT said yes they are entrepreneurs, but doesn't know how many.

Susan Fox said under assumption #6, the Department will license 122 adult foster care facilities.

SENATOR ECK asked about the added language on adult foster care homes, and wondered if something is being repealed.

Closing by Sponsor:

REP. SOFT thanked the Committee and encouraged passage of the bill.

MONTANA SENATE
1995 LEGISLATURE
PUBLIC HEALTH, WELFARE AND SAFETY COMMITTEE

ROLL CALL

DATE _____

3/6/95

[illegible]

SEN:1995

wp.rollcall.man

CS - 09

HB301 WRITTEN TESTIMONY

Mr. Chairman, Members of the committee; My name is Denzel Davis. I am the Health Facilities Division Administrator. You have before you HB301 which contains proposed changes to the state licensure statutes, chapter 5 - HOSPITALS AND RELATED FACILITIES.

This bill is intended to update statutory definitions;

HB301 redefines an Adult Day Care facility and restricts Adult Day Care from providing overnight stays. Adult Day Care facilities can seek a Personal Care license if they wish to provide overnight services. Meeting the requirements for personal care will assure that all necessary requirements to provide overnight care is available in the Adult Day Care facility. Adult Day Care facilities that are attached to a nursing facility can admit an overnight stay into an empty bed in the nursing facility. This would not require additional licensure.

HB301 replaces terms no longer in use such as "Kidney Treatment Centers" which changes to "End Stage Renal Dialysis".

HB301 modifies the definition of "health care facility" to identify only those specific types of facilities defined by the legislature and thus subject to regulation and licensure. Under the present language of "includes but is not limited to" any potential provider can request a health care facility/service license and not be required to fit a license category as defined by the legislature. HB301 then updates the list of licensed "health care facilities" to include Chemical Dependency, End Stage Renal Dialysis, Home Infusion Therapy Agencies, and Residential Care facilities. A definition for Home Infusion "service" and "Agency" is added.

If this bill is successful, a definition for Adult Foster Care, Retirement Home, and Residential Care will be necessary. These definitions are added by HB301. The bill defines a "Residential Care Facility" and moves four different facility types under this Licensure category. Licensing would be accomplished by endorsing a residential care license with one or more of the facility types as requested by a provider. The delivery of care in a "Residential Care Facility" will proceed along a spectrum from Retirement Homes, Adult Day Care, Adult Foster Care, and Personal Care. All four facility types covered by a "Residential Care" license will still be properly regulated, inspected, and licensed under the existing rules, but by one agency rather than three different agencies. The Licensure Bureau believes this is in harmony with the efforts to consolidate government and to provide a single point of access for the public.

This bill is intended to allow the department to request documentation from a health care facility to support written evidence of JCAHO accreditation.

The statute states "...any hospital that furnishes written evidence..." This language is problematic. There is a very broad interpretation of this requirement by providers with regards to what they deem written evidence of JCAHO accreditation. The cover letter granting accreditation is not deemed evidence. Accreditation by JCAHO may require a facility follow-up "focused survey" with a time line plan of correction as a basis for accreditation. These documents, in addition to the initial inspection report, follow up reports and any accompanying documents, must be provided to the department for review. This statute only applies if a facility wishes to seek license renewal based on JCAHO accreditation.

HB301 will requires the department to receive notification by a health care facility; indicating they are ready for an initial inspection.

The present statute requires an initial on-site survey within 45 days after receiving an application for a health care facility license. Frequently, a health care facility is not ready for an on-site inspection within that time frame. The results are lost productivity and a duplication of efforts resulting in increased cost to the department. This change will allow a provider to notify the department when they are ready to be inspected and still be able to proceed with the application process. Submitting an application can be important for financial arrangements. It has been reported to the department that on occasion, the owner must show they have initiated the licensure process before the financing institution will proceed.

HB301 is intended to remove statutory limitations of Personal Care "A" Facilities.

a) HB301 removes the quarterly requirement for a physician certification and assessment for category "A" personal care resident. In the last legislative session Senator Tom Towe successfully sponsored a bill authorizing the department to write rules for a new personal care category license, to include category "A" & "B" residents. The requirement for assessment of category "A" residents was part of that bill. The focus of category "A" personal care is intended to offer people who require some assistance with activities of daily living an alternative to residing in an institutional setting. Category "A" residents are by definition highly functional people that need only little assistance with activities of daily living. The department feels an assessment was never intended to include category "A" residents. The department sees no justification for a signed statement from a physician for a category "A" PC resident.

b) HB301 also removes the minimum number from category "A" personal care. The Department has been approached by a number of potential providers who would like a category "A" personal care license for less than 6 residents. Presently this is not permitted by statute. The focus of personal care is to provide a more home-like environment and to place less focus on institutional settings and requirements. Many providers accomplish this by purchasing a house and remodeling where necessary. Suitable houses are already difficult to find with local zoning restriction limits. A personal care facility's resident capacity is determined by available square footage of sleeping rooms, dining, and activity/day rooms. By limiting a minimum of six residents, it makes it more difficult to find a large enough suitable structure to remodel. Further, Adult Foster Care begins with 4 or less residents and Personal Care "A" begins with 6 or more residents. There is no category to include 5 category "A" residents. The Department feels there is no justification for such a minimum requirement. If eliminated it will help to make more personal care homes available to the public as an alternative to entering an institutional setting.

HB301 is intended to continue the Certificate of Need exception for a "Residential Care Facility" presently offered to Adult Foster Care.

HB301 will consolidate the regulatory oversight of Retirement Homes, Adult Day care, Adult Foster Care and Personal Care into a single agency. The new health care license category will be called "Residential Care". Licensure would be accomplished by endorsing the residential care license with one or more of the four facility types as requested by the provider. All facility types covered by a "Residential Care" license are presently exempted from review by Certificate of Need. Therefore, there is no impact by the language clarifying the exemption.

HB301 establishes requirements for Home Infusion Therapy Services.

This section further defines home infusion therapy services and the requirements for the provision of this service.

The Health Facilities Division, licensure Bureau would appreciate your consideration of this bill and ask for a vote of do pass for HB301.

Denzel C. Davis, Administrator
Licensing & Certification Bureau
Health Services Division

DEPARTMENT OF
SOCIAL AND REHABILITATION SERVICES

SENATE HEALTH & WELFARE
EXHIBIT NO. 17
DATE 3/6/95
BILL NO. HB 301
PETER S. BLOUKE, PhD
DIRECTOR



MARC RACICOT
GOVERNOR

STATE OF MONTANA

P.O. BOX 4210
HELENA, MONTANA 59604-4210

**TESTIMONY BY THE DEPARTMENT OF SOCIAL AND
REHABILITATION SERVICES BEFORE THE SENATE
PUBLIC HEALTH, WELFARE AND SAFETY COMMITTEE**

HB 301 - Act Relating to Health Care Facilities

The Department of Social and Rehabilitation Services supports House Bill 301. Passage of this bill will facilitate the provision of home and community services that are alternatives to more costly institutional care.

As part of the Department's Long Term Care Reform efforts, we are developing a number of community options for recipients of long term care services. One of these options, which will be provided under our Home and Community Based Waiver, is adult residential care in foster homes and personal care facilities. The services are being developed under the waiver to ensure the services are cost-effective and targeted to those at risk of institutionalization. The creation of a category defined as residential care facilities and the licensing of these various facilities by only one department will greatly facilitate the definition of, and reimbursement for, this service.

The deletion of the minimum resident requirements for category A personal care facilities will promote the availability of this service in small, more home-like settings. This goes hand in hand with our philosophy regarding the provision of long term care services. That philosophy is to encourage a maximum level of individual independence, foster cost-effective services, and respect the dignity of the individual.

We urge you to pass HB 301.

Chapter Cross-References

Nonliability for peer review, Title 37, ch. 2, part 2.
Unprofessional conduct by physician, 37-3-322.

Revocation or suspension of physician's license, 37-3-323.
Penalties for violations of physician's licensing law, 37-3-325.
Injunctive relief for violations of physician's licensing law, 37-3-326.

SENATE HEALTH & WELFARE

Part 1

EXHIBIT NO. 18

General Provisions

DATE 3/6/95
HB 301

27-6-101. Short title. This chapter may be cited as the "Montana Medical Legal Panel Act".
History: En. 17-1301 by Sec. 1, Ch. 449, L. 1977; R.C.M. 1947, 17-1301; amd. Sec. 1, Ch. 376, L. 1983.

27-6-102. Purpose. The purpose of this chapter is to prevent where possible the filing in court of actions against health care providers and their employees for professional liability in situations where the facts do not permit at least a reasonable inference of malpractice and to make possible the fair and equitable disposition of such claims against health care providers as are or reasonably may be well founded.
History: En. 17-1302 by Sec. 2, Ch. 449, L. 1977; R.C.M. 1947, 17-1302.

27-6-103. Definitions. As used in this chapter, the following definitions apply:

- (1) "Dentist" means:
 - (a) for purposes of the assessment of the annual surcharge, an individual licensed to practice dentistry under the provisions of Title 37, chapter 4, who at the time of the assessment:
 - (i) has as his principal residence or place of dental practice the state of Montana;
 - (ii) is not employed full-time by any federal governmental agency or entity; and
 - (iii) is not fully retired from the practice of dentistry; or
 - (b) for all other purposes, a person licensed to practice dentistry under the provisions of Title 37, chapter 4, who at the time of the occurrence of the incident giving rise to the claim:
 - (i) was an individual who had as his principal residence or place of dental practice the state of Montana and was not employed full-time by any federal governmental agency or entity; or
 - (ii) was a professional service corporation, partnership, or other business entity organized under the laws of any state to render dental services and whose shareholders, partners, or owners were individual dentists licensed to practice dentistry under the provisions of Title 37, chapter 4.
- (2) "Health care facility" means a facility (other than a governmental infirmary but including a university or college infirmary) licensed as a health care facility under Title 50, chapter 5. The term does not include chemical dependency facilities, end-stage renal dialysis facilities, home infusion therapy agencies, and residential care facilities.
- (3) "Health care provider" means a physician, a dentist, or a health care facility.
- (4) "Hospital" means a hospital as defined in 50-5-101.

(5) "Malpractice claim" means any claim or potential claim of a claimant against a health care provider for medical or dental treatment, lack of medical or dental treatment, or other alleged departure from accepted standards of health care which proximately results in damage to the claimant, whether the claimant's claim or potential claim sounds in tort or contract, and includes but is not limited to allegations of battery or wrongful death.

(6) "Panel" means the Montana medical legal panel provided for in 27-6-104.

(7) "Physician" means:

(a) for purposes of the assessment of the annual surcharge, an individual licensed to practice medicine under the provisions of Title 37, chapter 3, who at the time of the assessment:

- (i) has as his principal residence or place of medical practice the state of Montana;
 - (ii) is not employed full-time by any federal governmental agency or entity; and
 - (iii) is not fully retired from the practice of medicine; or
- (b) for all other purposes, a person licensed to practice medicine under the provisions of Title 37, chapter 3, who at the time of the occurrence of the incident giving rise to the claim:

- (i) was an individual who had as his principal residence or place of medical practice the state of Montana and was not employed full-time by any federal governmental agency or entity; or
- (ii) was a professional service corporation, partnership, or other business entity organized under the laws of any state to render medical services and whose shareholders, partners, or owners were individual physicians licensed to practice medicine under the provisions of Title 37, chapter 3.

History: En. 17-1303 by Sec. 3, Ch. 449, L. 1977; R.C.M. 1947, 17-1303; amd. Sec. 2, Ch. 376, L. 1983; amd. Sec. 1, Ch. 332, L. 1985; amd. Sec. 1, Ch. 195, L. 1987; amd. Sec. 1, Ch. 96, L. 1989.

Cross-References

Medicine — regulation and licensing, Title 37, ch. 3. Hospitals and related facilities, Title 50, ch. 5.

27-6-104. Creation of panel. The Montana medical legal panel is created. The panel is attached to the Montana supreme court for administrative purposes only, except that 2-15-121(2) does not apply.

History: En. 17-1304 by Sec. 4, Ch. 449, L. 1977; R.C.M. 1947, 17-1304(part); amd. Sec. 3, Ch. 376, L. 1983.

27-6-105. What claims panel to review. The panel shall review all malpractice claims or potential claims against health care providers covered by this chapter except those claims subject to a valid arbitration agreement allowed by law or upon which suit has been filed prior to April 19, 1977.

History: En. 17-1304 by Sec. 4, Ch. 449, L. 1977; R.C.M. 1947, 17-1304(part).

Cross-References

Arbitration, Title 27, ch. 5.

27-6-106. Immunity of panel members and witnesses from civil liability. Panelists and witnesses are absolutely immune from civil liability for all communications, findings, opinions, and conclusions made in the course and scope of the duties prescribed by this chapter.

DATE 3/6/95

SENATE COMMITTEE ON Public Health

BILLS BEING HEARD TODAY: HB 245, HB 301
HB 407

< ■ > PLEASE PRINT < ■ >

Check One

Name	Representing	Bill No.	Support	Oppose
BLANCHE PROUL	Bd. of NURSING	HB407		✓
Jeanine Ford	MT Student Nurses' Assn	HB407		✓
Kelly Williams	SRS	HB407	✓	
JOYCE DECUNZO	SRS	HB301	✓	
Rita Turley	MONIE	HB407		2 out general
LANCE MELTON	BED OF NURSING	HB407		✓
Ed Caplis	MSCA			✓
DENZEL C DAVIS	DHES.	HB301	✓	
Liz Smith	Rep. HD 56	HB407	with amend.	✓
SHARON HOFF	MT CATHOLIC CONF	HB245	✓	
Jean Miles	L & C County Health	HB407		✓
Bob Smith	MT Med Assn	HB407 HB301	✓	
Frank Konkowski	DFF	245	✓	
Kate Cholewa	MT Women's Lobby	245	✓	

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

DATE _____

SENATE COMMITTEE ON _____

BILLS BEING HEARD TODAY: _____

< ■ > PLEASE PRINT < ■ >

Check One

Name	Representing	Bill No.	Support	Oppose
Ketti Choleux	Human Service Found	245	✓	
RITA Turley	MTORGE OF NURSE EXECUTIVES	407		✓ BUT add amts
Jim Ahrens	Montana Hospital Assn	407	✓	
Bob Olsen	Montana Hospital Assn	301	✓	
Charles Briggs	Area IV Agency on Aging	407	✓	
Charles Briggs	Area IV Agency on Aging	301	✓	
Roy P Kemp	Licensure Bureau	301	✓	
Terone Lardock	mt. med legal found	301	✓ & amend	

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

EXECUTIVE ACTION ON HB 301

Discussion: SENATOR BURNETT asked about amendments to HB 301.

Susan Fox said there were amendments regarding the Medical-Legal Panel, changing the definition to make sure the facilities not included under health care facilities aren't included in the Medical-Legal Act.

Motion: SENATOR MOHL moved HB 301 BE NOT CONCURRED IN.

Discussion: SENATOR MOHL said, if this is a consolidation, why will it cost more money. Referring to the Fiscal Note, he said the money will come from the General Fund. EXHIBIT 1. He said with consolidation, some FTE's be eliminated. This is not being done, so he opposes the bill.

SENATOR BAER referring to the Fiscal Note, he said the net impact is a General Fund increase. He asked if this is a revenue increase, money saved, or money cost.

SENATOR ECK said these homes are currently licensed at \$20.00 per year, except for the DFS homes where nothing has been charged, but now all are going into one administration, which means they will be receiving an extra \$3,000 per year from those DFS homes at the rate of \$20.00 per home.

SENATOR BURNETT said \$6,000 would be going into the General Fund, and reduces DFS by \$4,500 each year of the biennium. He said DFS thinks they need it.

Motion: SENATOR ECK made a substitution motion HB 301 BE CONCURRED IN.

Discussion: SENATOR BURNETT read the amendments. EXHIBIT 2.

Susan Fox said the whole section would have to be put into the bill. It clarifies, for the purposes only of the Medical-Legal Panel, that the health care facilities would not include chemical dependency facility, end-stage renal dialysis facilities, home infusion therapy agency, or residential care facility.

SENATOR SPRAGUE said, as he remembers, there were no opponents to this bill.

SENATOR BURNETT asked if SENATOR ECK wanted to include the amendments in her motion.

SENATOR ECK recalled Jerry Loendorf's testimony. If a particular home wanted to be included, they could, by paying that \$55.00.

Susan Fox, recalled what Jerry Loendorf said. Currently all health care facilities that are defined in the amendments participate in paying the cost for the Medical-Legal Panel. If

this amendment is not included, these different facilities would be assessed the cost of the Medical-Legal Panel. She said since these facilities had not previously participated in the Medical-Legal Panel, this amendment is to preclude their being assessed the cost, unless, at a future date they choose to participate they would be assessed to participate.

Motion/Vote: SENATOR ECK moved the Amendments to HB 301 DO PASS. The motion CARRIED UNANIMOUSLY.

Motion: SENATOR ECK moved HB 301 BE CONCURRED IN AS AMENDED.

SENATOR ESTRADA asked for a refresher on HB 301 and for SENATOR ECK to explain what this bill does.

SENATOR ECK said it primarily relates to adult foster care homes, which are small homes that take care of from one to five elderly people who do not need nursing home care. This bill moves their licensing from DFS to the Department of Health and Environmental Sciences.

SENATOR ESTRADA asked about retirement homes.

SENATOR SPRAGUE referred to line 6 on the Fiscal Note. He said what's important is the 122 adult foster care homes, and the licensing. He had a question about some of these homes never having had to pay a license fee.

SENATOR MOHL said he has a problems with item #4 of the Fiscal Note, that no FTE's will be transferred, and recommended adding an amendment to reduce some FTE's.

SENATOR BURNETT said that would be handled by Finance and Claims.

SENATOR BENEDICT said this is a Finance and Claims area, and if this bill is referred to Finance and Claims, that is the place to take care of the FTE issue.

Vote: The Be Concurred In motion for HB 301 AS AMENDED CARRIED with Senator Mohl voting NO.

SENATOR BURNETT will carry HB 301.

HEARING ON HB 385

Opening Statement by Sponsor:

REP. ROYAL JOHNSON, HD 10, Billings, said, with this bill, the Department will collect a lot of money and not add any FTE's. He is carrying this bill on behalf of the Department of Social and Rehabilitation Services. HB 385 would authorize the Department to make a concerted effort to develop a means of collecting monies that are due the state for child support. With the welfare reform package, they think they could get about \$3.6 million in AFDC

MONTANA SENATE
1995 LEGISLATURE
PUBLIC HEALTH, WELFARE AND SAFETY COMMITTEE

ROLL CALL

DATE _____

3/8/95

[illegible]

SEN:1995
wp.rollcall.man
CS-09

stage renal dialysis facility, a home infusion therapy agency, or a residential care facility.

(3) "Health care provider" means a physician, a dentist, or a health care facility.

(4) "Hospital" means a hospital as defined in 50-5-101.

(5) "Malpractice claim" means ~~any~~ a claim or potential claim of a claimant against a health care provider for medical or dental treatment, lack of medical or dental treatment, or other alleged departure from accepted standards of health care ~~which~~ that proximately results in damage to the claimant, whether the claimant's claim or potential claim sounds in tort or contract, and includes but is not limited to allegations of battery or wrongful death.

(6) "Panel" means the Montana medical legal panel provided for in 27-6-104.

(7) "Physician" means:

(a) for purposes of the assessment of the annual surcharge, an individual licensed to practice medicine under the provisions of Title 37, chapter 3, who at the time of the assessment:

(i) has as ~~his~~ the individual's principal residence or place of medical practice the state of Montana;

(ii) is not employed full-time by any federal governmental agency or entity; and

(iii) is not fully retired from the practice of medicine;
or

(b) for all other purposes, a person licensed to practice medicine under the provisions of Title 37, chapter 3, who at the time of the occurrence of the incident giving rise to the claim:

(i) was an individual who had as ~~his~~ the principal residence or place of medical practice the state of Montana and was not employed full-time by any federal governmental agency or entity; or

(ii) was a professional service corporation, partnership, or other business entity organized under the laws of any state to render medical services and whose shareholders, partners, or owners were individual physicians licensed to practice medicine under the provisions of Title 37, chapter 3."

Renumber: subsequent sections

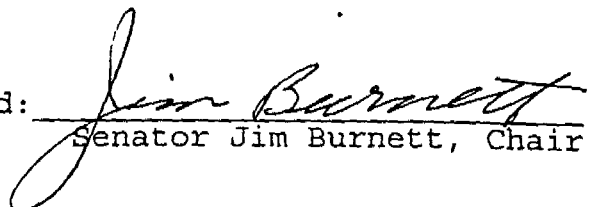
-END-

SENATE STANDING COMMITTEE REPORT

Page 1 of 2
March 9, 1995

MR. PRESIDENT:

We, your committee on Public Health, Welfare, and Safety having had under consideration HB 301 (third reading copy -- blue), respectfully report that HB 301 be amended as follows and as so amended be concurred in.

Signed: 
Senator Jim Burnett, Chair

That such amendments read:

1. Title, line 12.
Following: "SECTIONS"
Insert: "27-6-103,"

2. Page 17, line 10.
Insert: "Section 14. Section 27-6-103, MCA, is amended to read:
"27-6-103. Definitions. As used in this chapter, the following definitions apply:

(1) "Dentist" means:

(a) for purposes of the assessment of the annual surcharge, an individual licensed to practice dentistry under the provisions of Title 37, chapter 4, who at the time of the assessment:

(i) has as ~~his~~ the individual's principal residence or place of dental practice the state of Montana;

(ii) is not employed full-time by any federal governmental agency or entity; and

(iii) is not fully retired from the practice of dentistry; or

(b) for all other purposes, a person licensed to practice dentistry under the provisions of Title 37, chapter 4, who at the time of the occurrence of the incident giving rise to the claim:

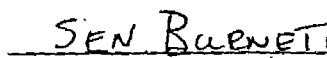
(i) was an individual who had as ~~his~~ the principal residence or place of dental practice the state of Montana and was not employed full-time by any federal governmental agency or entity; or

(ii) was a professional service corporation, partnership, or other business entity organized under the laws of any state to render dental services and whose shareholders, partners, or owners were individual dentists licensed to practice dentistry under the provisions of Title 37, chapter 4.

(2) (a) "Health care facility" means a facility (other than a governmental infirmary but including a university or college infirmary) licensed as a health care facility under Title 50, chapter 5.

(b) For the purposes of this chapter, a health care facility does not include a chemical dependency facility, an end-


Amd. Coord.
Sec. of Senate


SEN BURNETT
Senator Carrying Bill

551251SC.SPV

DATE

3/6/95

BILL NO.

HB 301

STATE OF MONTANA - FISCAL NOTE

Revised Fiscal Note for HB0301, as introduced

DESCRIPTION OF PROPOSED LEGISLATION:

Act relating to health care facilities; providing definitions; clarifying that the Department of Health and Environmental Sciences (DHES) may require written evidence for licensure, requiring notice to the department that a health care facility is ready to be inspected; removing the requirement for an annual physicians statement and visit for placement of a resident in a Category A personal care facility; deleting minimum resident requirements for Category A personal care facilities; providing requirements for home infusion therapy services and for retirement homes.

ASSUMPTIONS:

1. The Executive Budget present law base serves as the starting point for calculating any fiscal impact due to this proposed legislation.
2. The licensure of adult foster care homes is transferred to DHES from the Department of Family Services (DFS). DFS does not currently charge fees for licensure of these homes.
3. Since DHES would license the homes under the same category as DFS, the Supplemental Security Income (SSI) payments would not change from \$52.75 per client per month to \$94.00 per client per month, as stated in the initial fiscal note.
4. DFS will see a reduction of 3% in licensing responsibility, amounting to approximately \$4,500 per year which will be transferred from DFS to DHES to perform the licensing tasks. No FTE will be transferred. The funding is entirely general fund.
5. DHES will license approximately 980 retirement home beds in 19 facilities. Based on current license fees, the department estimates it will generate \$1,050 in fees which will be deposited to the general fund.
6. DHES will license 122 adult foster care facilities. Based on current license fees, the department estimates it will generate \$2,440 in license revenue which will be deposited to the general fund.

FISCAL IMPACT:Expenditures:

	<u>FY96</u>	<u>FY97</u>
	<u>Difference</u>	<u>Difference</u>
Reduce DFS Expenditures for Licensure	(4,500)	(4,500)
Increase DHES Expenditures for Licensure	<u>4,500</u>	<u>4,500</u>
Total Expenditures	0	0

Revenues:

Retirement Home Fees (to GF)	1,050	1,050
Adult Foster Care (to GF)	<u>2,440</u>	<u>2,440</u>
General Fund Increase	3,490	3,490

Net Impact:

General Fund Increase	3,490	3,490
-----------------------	-------	-------

EFFECT ON COUNTY OR OTHER LOCAL REVENUES OR EXPENDITURES:

Counties currently receive 85% of the license fee for Retirement Homes to offset the cost of inspecting the facilities by county sanitarians. These fees would no longer go to the county. However, the county would no longer be required to inspect retirement homes and incur the related expenditures, so there would be no fiscal impact.

DAVE LEWIS, BUDGET DIRECTOR
Office of Budget and Program Planning

DATE

LOREN SOFT, PRIMARY SPONSOR

DATE

Revised Fiscal Note for HB0301, as introduced

HB 301 #2 Rev

Amendments to House Bill No. 301
Third Reading Copy

For the Committee on Public Health, Welfare, and Safety

Prepared by Susan Byorth Fox
March 7, 1995

1. Title, line 12.
Following: "SECTIONS"
Insert: "27-6-103,"

2. Page 17, line 10.
Insert: "Section 14. Section 27-6-103, MCA, is amended to read:
"27-6-103. Definitions. As used in this chapter, the
following definitions apply:

(1) "Dentist" means:

(a) for purposes of the assessment of the annual surcharge, an individual licensed to practice dentistry under the provisions of Title 37, chapter 4, who at the time of the assessment:

(i) has as ~~his~~ the individual's principal residence or place of dental practice the state of Montana;

(ii) is not employed full-time by any federal governmental agency or entity; and

(iii) is not fully retired from the practice of dentistry;
or

(b) for all other purposes, a person licensed to practice dentistry under the provisions of Title 37, chapter 4, who at the time of the occurrence of the incident giving rise to the claim:

(i) was an individual who had as ~~his~~ the principal residence or place of dental practice the state of Montana and was not employed full-time by any federal governmental agency or entity; or

(ii) was a professional service corporation, partnership, or other business entity organized under the laws of any state to render dental services and whose shareholders, partners, or owners were individual dentists licensed to practice dentistry under the provisions of Title 37, chapter 4.

(2) (a) "Health care facility" means a facility (other than a governmental infirmary but including a university or college infirmary) licensed as a health care facility under Title 50, chapter 5.

(b) For the purposes of this chapter, a health care facility does not include a chemical dependency facility, an end-stage renal dialysis facility, a home infusion therapy agency, or a residential care facility.

(3) "Health care provider" means a physician, a dentist, or a health care facility.

(4) "Hospital" means a hospital as defined in 50-5-101.

(5) "Malpractice claim" means any a claim or potential claim of a claimant against a health care provider for medical or dental treatment, lack of medical or dental treatment, or other alleged departure from accepted standards of health care ~~which~~

that proximately results in damage to the claimant, whether the claimant's claim or potential claim sounds in tort or contract, and includes but is not limited to allegations of battery or wrongful death.

(6) "Panel" means the Montana medical legal panel provided for in 27-6-104.

(7) "Physician" means:

(a) for purposes of the assessment of the annual surcharge, an individual licensed to practice medicine under the provisions of Title 37, chapter 3, who at the time of the assessment:

(i) has as ~~his~~ the individual's principal residence or place of medical practice the state of Montana;

(ii) is not employed full-time by any federal governmental agency or entity; and

(iii) is not fully retired from the practice of medicine;
or

(b) for all other purposes, a person licensed to practice medicine under the provisions of Title 37, chapter 3, who at the time of the occurrence of the incident giving rise to the claim:

(i) was an individual who had as ~~his~~ the principal residence or place of medical practice the state of Montana and was not employed full-time by any federal governmental agency or entity; or

(ii) was a professional service corporation, partnership, or other business entity organized under the laws of any state to render medical services and whose shareholders, partners, or owners were individual physicians licensed to practice medicine under the provisions of Title 37, chapter 3."

Renumber: subsequent sections